

**Applicant:** Bernalillo County  
Zoning, Building, Planning &  
Environmental Health Department  
111 Union Station St. SE  
Albuquerque, NM 87111

**Property Owner:** Mark W. Easley  
Easley Roofing Co.  
PO Box 385  
Edgewood, NM 87015

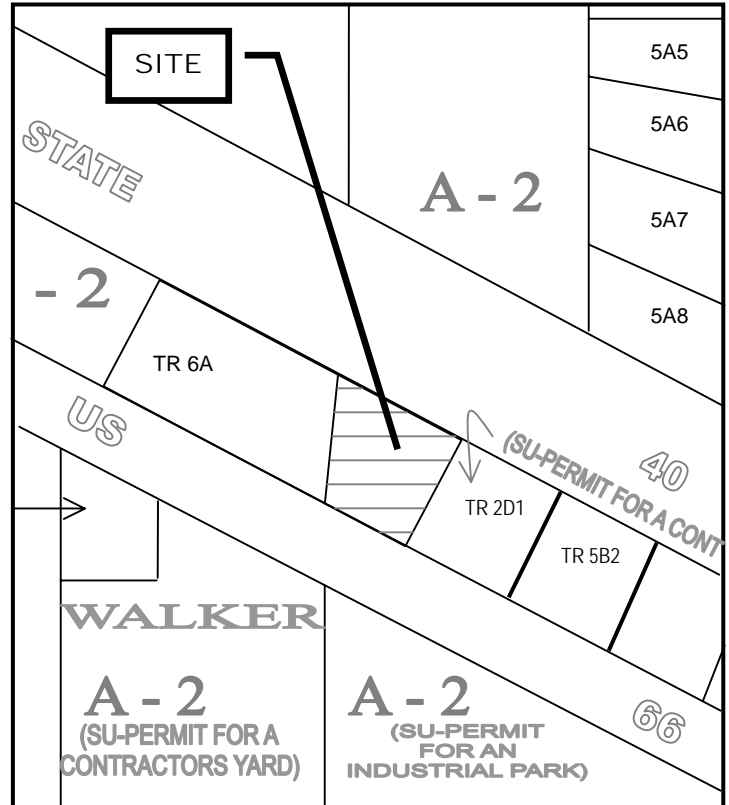
**Location:** 1417 Old US 66 East

**Property Size:** 2.14 acres +/-

**Existing SUP:** Special Use Permit for a  
Contractor's Yard &  
Equipment Storage

**Zoning:** A-2 Rural Agricultural

**Recommendation:** Cancellation



**Summary:** The Zoning, Building, Planning & Environmental Health Department proposes cancellation of an existing Special Use Permit for a Contractor's Yard & Equipment Storage (CSU-01-4). Despite the granting of the permit over 5 years ago and contact from the property owner stating his intention to utilize the site, the property has yet to be developed as approved, and is in violation of the Conditions of Approval.

This matter was continued by the CPC in August 2005, to allow the owner the opportunity to develop the property in compliance with the approved site plan, but staff has been unable to verify that any progress has been made toward completion of the project.

**Staff Contact:** Brennon Williams, Zoning Administrator

**Attachments:**

1. CPC Notice of Decision (August 5, 2005)
2. Recent staff inquiries concerning the status of the site
3. Notice of Special Use Permit (March 12, 2001)
4. Revised site development plan (February 9, 2005)
5. Solicitation of intent (April 22, 2005)
6. Owner's declaration of intent & supplemental information (June 12, 2005)
7. Notice of intent to cancel (June 16, 2005)
8. Neighborhood association correspondence
9. Zone atlas page

CSU-01-4      Zoning, Building, Planning & Environmental Health  
Department request cancellation of a Special Use Permit for  
a Contractor's Yard & Equipment Storage on Tract 2D2,  
Lands of Phillip R. Adams and Jerry Adams, located on NM  
Highway 333 approximately ½ east of Mountain Valley Road,  
zoned A-2, containing approximately 2.14 acres. (J-36)  
(CONTINUED FROM THE AUGUST 3, 2005, HEARING)

**AREA CHARACTERISTICS & ZONING HISTORY**  
**Surrounding Zoning & Land Uses**

	<b>Zoning</b>	<b>Land use</b>
<b>Site</b>	A-2 with a Special Use Permit for a Contractor's Yard & Equipment Storage	Vacant
<b>North</b>	A-2	Interstate 40
<b>South</b>	A-2	New Mexico Highway 333 (a.k.a. Old US 66)
<b>East</b>	A-2 with a Special Use Permit for a Contractor's Yard & Equipment Storage	Contractor's yard and storage of equipment
<b>West</b>	A-2	Vacant

**BACKGROUND****Special Use Permit History & Overview**

On April 24, 2001, the Board of County Commissioners authorized a Special Use Permit for a Contractor's Yard & Equipment Storage for property located on NM Highway 333 approximately ½ mile east of Mountain Valley Road. Authorization was predicated on six (6) Findings and 13 Conditions (Attachment 1). Specifically, the permit was approved for 10 years, required that a revised site development plan consistent with the conditions be submitted within two months of approval, and referenced the activation of the conditions upon execution or utilization of the permit.

Approximately 45 months later, in December 2004, a revised site plan was submitted to the Zoning Administrator. After noted changes and additions to the plan were made, it was approved on February 9, 2005. Additionally, a copy of the State of New Mexico driveway permit issued for the site was submitted for inclusion in the file as required by one of the established conditions.

Sixty days later, based on a requested survey of special use permits in the East Mountain area from the County Commission office, an inspection of the site by a zoning inspector revealed that no other work on the implementation of the permit could be determined, and no improvements had been made to the subject site since approval. Subsequently, notification of cancellation procedures was sent via certified mail to the property owner, requesting a written statement as to his intentions for the permit.

In a letter dated June 12, 2005, the owner replied to the County's request. He wrote that he was interested in continuing the special use permit for the remainder of the designated approval period, as he had invested "time and money to start the development of the property this year", and indicated that future development on the property would be "an ongoing project for the next several years".

**Recent History – July 2006**

Since the continuation of this matter by the County Planning Commission in August 2005, staff has been unable to document any progress on the project since July 2005, and is unaware of any pending work or related delays affecting the site. The county's permitting system (Attachment 2) shows that no applications or inspections have occurred since the CPC originally addressed the cancellation proposal 12 months ago.

**Subject Site & Surrounding Properties**

The property is located on the north side of NM highway 333, also known as Old US 66, and immediately south of Interstate 40., about 3/10 of a mile from the eastern county line. It consists of a trapezoidal parcel with an overall area of approximately two-and-a-half acres. There are properties in the immediate area currently developed with special use permits for commercial and industrial uses, as well as sites zoned A-2 which are undeveloped at this time.

**APPLICABLE REGULATIONS & POLICIES****Comprehensive Zoning Ordinance of Bernalillo County**Section 18. Special Use Permit Regulations.

H. Violation of the approved development plan or any condition imposed by the Board of County Commissioners in approving an application filed under this section shall constitute a violation of the permit and shall be subject the permit to cancellation pursuant to this section.

COUNTY PLANNING COMMISSION  
AUGUST 2, 2006  
CSU-01-4

## 1. Procedures for Cancellation:

- (a) The Zoning Administrator or his designee has the duty of routinely inspecting the Special Use Permit to insure compliance with the approved development plan and conditions imposed by the Board of County Commissioners.
- (b) If the Zoning Administrator or his designee shall find that any of the conditions of the approved development plan or the conditions imposed by the Board of County Commissioners have not been complied with, they shall notify in writing, the owner, tenant, agent, occupant, or person in charge of the premises, indicating the nature of the violation and ordering its correction within 30 days.

- (c) In an event that a violation of the approved development plan or conditions imposed by the Board of County Commissioners continues, the Zoning Administrator or his designee may institute the appropriate action to cancel the Special Use Permit pursuant to this section of proceed against the owner, tenant, agent, occupant, or person in charge of the premises, pursuant to the Penalty section of this Ordinance.
  - (d) Any violation o the approved development plan or conditions imposed by the Board of County Commissioners that continues for a period of 30 days after notification by certified mail receipt return requested shall subject the Special Use Permit to cancellation pursuant to the process outlined under Section 18.E., Subsections 1, 2, and 3. In the event that the Special Use Permit is cancelled, all references to said Special Use Permit shall be removed from the official zoned maps by the County Planning Department.
2. In the event a use authorized by a Special Use Permit is not established within 12 months of the date of approval or is discontinued for a period of 12 months, the County Planning Department shall send notification by certified mail return receipt requested requiring the property owner, tenant, agent, occupant, or person in charge of the premises to state in writing within 30 days his or her intention to establish or continue said permit. If the property owner, tenant, agent, occupant, or person in charge of the premises does not declare in writing his or her intention to establish or continue said permit, then authorization or approval may be cancelled and relevant documents, if any, shall be removed from the official zone maps by the County Planning Department.

## ANALYSIS

The property is located near the eastern county line in an area of mostly vacant properties. Of those developed in the area, most have special use permits for commercial or industrial uses. Additionally, this property's location immediately south of Interstate 40 and fronting onto Old US 66 places it between two heavily traveled thoroughfares where future residential development seems unlikely. A review of County records indicates that the original property owner who obtained the existing special use permit is not current owner. The current owner has also made a few attempts over the last several months to meet the conditions of approval, including the submission of a revised site plan and copies of a driveway permit from the state.

However, of biggest concern to the County is the owner's perceived COUNTY PLANNING COMMISSION the stated due date. As requests for special use permits are judged AUGUST 2, 2006 concerning surrounding land uses, overall consistency with plans ar a neighborhood residents, quick and diligent progress is a legitimate ex CSU-01-4 pectation. Owners of special use permits who fail to utilize their authorized rights and privileges in an expeditious manner may find that applicable regulations have changed, permits are invalidated, or additional fees are applied to their projects.

Cancellation of an existing special use permit is never a proposal the County takes lightly. As the primary task of the department is to assist property owners in bringing their sites into compliance with the regulations, individuals working quickly to complete their projects are often given sufficient time to do so. These expectations are also carried by owners and residents of neighboring properties, who often suffer certain construction inconveniences while work is in progress. Unfortunately, the owner's lack of significant improvements over the last 5½ years, previously stated needs for additional extensions, and a lack of action since the last cancellation hearing are too significant to overlook at this time. Because of these factors, staff recommends cancellation of CSU-01-4 at this time.

## Proposed Findings for Cancellation

1. This is a request for the cancellation of a Special Use Permit for a Contractor's Yard & Equipment Storage (CSU-01-4) at 1417 Old US 66 East , zoned A-2 and containing approximately 2.14 acres.

2. This matter was continued from the County Planning Commission meeting held on August 5, 2005. At that meeting, the owner of the property indicated a desire to establish the permit, properly address outstanding requirements, and meet all of the specified Conditions of Approval established with permit.
3. Staff is unaware of any additional steps that have been undertaken to complete the project, and is unable to document any official progress related to the establishment of the Special Use Permit.
4. The Bernalillo County Planning Department notified the property owner of noncompliance with the provisions of the Special Use Permit on April 22, 2005, as described in Section 18.H. of the Comprehensive Zoning Ordinance of Bernalillo County.
5. This decision removes the Special Use Permit (CSU-01-4) from the property, and reverts the zoning on the site back to the uses and activities allowed, and as limited by, the underlying zoning designation of A-2 Rural Agricultural.

**RECOMMENDATION:**

Cancellation of CSU-01-4

Brennon Williams  
Zoning Administrator